

REMARKS

In response to the Examiner's Answer dated December 11, 2008 in the Appeal of the prior final rejection of the present Application, Applicant has filed a Request for Continued Examination and hereby respectfully requests the Examiner to reconsider the above-captioned Application in view of the foregoing amendments and the following comments.

Summary of the Rejections

In the Examiner's Answer, Claims 1, 3, 6-11, 28, and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fradera in view of Kumar. Claims 4, 5, 8, 9, and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fradera in view of Kumar as applied above and in further view of International Publication No. WO 01/85050 issued to Hurson ("WO '050"). Further, Claims 18-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fradera and Kumar as applied above and in further view of U.S. Patent No. 5,135,395, issued to Marlin ("Marlin") and U.S. Patent No. 5,688,123, issued to Meiers et al. ("Meiers"). Furthermore, Claims 30-34 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,769,913 issued to Hurson ("Hurson") in view of U.S. Patent No. 4,790,753 issued to Fradera ("Fradera") in view of U.S. Patent No. 6,951,462 issued to Kumar et al. ("Kumar"). However, the Examiner also indicated that Claim 36 would be allowable if rewritten in independent form to include all of the limitations of its base claim.

Allowable Subject Matter

Applicant gratefully acknowledges the Examiner's indication that Claim 36 is allowable.

Summary of the Amendment

By this paper, Applicants have amended Claims 1 and 28 and canceled Claim 36. Accordingly, Claims 1, 3-11, and 18-35 are currently pending in the present Application. By this paper, Applicants respond to the Examiner's comments and rejections made in the Examiner's Answer dated December 11, 2008. Applicants respectfully submit that the present Application is in condition for allowance.

In re Claim Rejections

By this paper, Applicant has amended Claim 1 to incorporate the features of Claim 36 to thereby present original Claim 36 in independent form with all of the limitations of its base claim, Claim 1. As such, Applicant respectfully submits that Claim 1, as well as Claims 3-11 and 18-27, which depend from Claim 1, are now in condition for allowance.

Further, Applicant has amended independent Claim 28 to include the allowable subject matter of Claim 36 and Applicant believes that Claim 28 is also now in condition for allowance. As such, Applicant respectfully submits that Claim 28, as well as Claims 29-35, which depend from Claim 28, are now in condition for allowance.

Should it be deemed necessary, Applicant will submit a Terminal Disclaimer to overcome the double patenting rejection of Claims 30-34. However, as these claims depend from an allowable base claim, Applicant respectfully submits that the rejection of Claims 30-34 should be withdrawn.

Therefore, Applicant believes that each of the rejections are now moot.

No Disclaimers or Disavowals

Although the present communication may include alterations to the Application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this Application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this Application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present Application.

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CONCLUSION

Applicants respectfully submit that the above rejections and objections have been overcome and that the present Application is now in condition for allowance. Therefore, Applicants respectfully request that the Examiner indicate that Claims 1, 3-11, 18-35 are now acceptable and allowed. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present Application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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